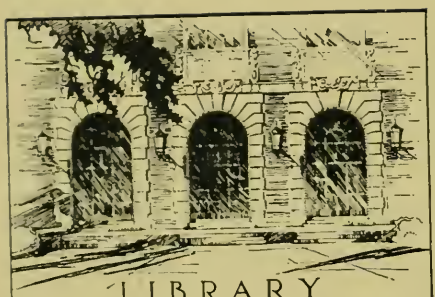

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CHARGE

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JAMES RANDALL, M.A.,

ARCHDEACON OF BERKS.,

AT

HIS VISITATION IN MAY, 1867.

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Charge, &c.

My Rev. Brethren, and my Brethren of the Laity,

In my last Charge, in 1865, I expressed the satisfaction with which I observed the improvement in the keeping of our churchyards. Our Bishop, in his Charge last year[a], stated his opinion "that the improvement of our churchyards has not borne any proportion to that of our churches." These remarks stand in apparent opposition to each other; but in fact they are perfectly consistent.

Our churchyards are in a transitionary state. They *were* almost universally neglected; they are now, in many instances, well cared for; though in other instances, I fear we must still say, they are not cared for at all. But, in like manner, the restoration of our churches was not undertaken or accomplished all at once. Some parishes began the work, and their success excited and encouraged others to do the like; so that now a neglected church is a rare exception, and felt to be a disgrace that ought to be

[a] p. 23.

got rid of. And I am sure that the same feeling is gradually reaching to the churchyards; and that we shall soon see them brought into a state worthy of the mansion-houses of God, which they, as His gardens, gird about. And this seems to be a proper occasion for me to say a few words concerning the superintendence that ought to be exercised over them, in regard to their use as places of interment. I do not profess or intend to give anything like a summary of the law in this matter, which is a large subject, involving the consideration of many cases both in ecclesiastical and common law courts; but merely to mention a few points of continual occurrence, upon which I am frequently applied to for advice, and on which I think the powers and duties of the Clergy and Churchwardens are not in general sufficiently understood.

I take it, then, to be quite clear, that the general right of the parishioners to be buried in the churchyard extends no farther than to the right of burial in a plain grave. All beyond that, such as bricked graves, vaults, monuments, can be allowed only at the discretion of the Ordinary, or of those who represent him, whose duty it is to take care that nothing that is either in itself unseemly, or that unduly encroaches upon the ground in which all the parishioners have an interest, be introduced. It is generally understood, that for this purpose the Minister *does*

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represent the Ordinary, and that the Ordinary relies upon him to see that nothing shall be done which the Ordinary would not, or ought not to permit. And it is, I apprehend, as a consequence of this superintendence, as well as of his freehold right in the soil, that the Minister is entitled to require a fee for his consent to any such extra-ordinary additions to the plain grave as I before mentioned. The exaction of such fees is sometimes complained of as an abuse, as being a payment for a licence, which, if improper, ought not to be granted, or, if proper, ought not to be paid for. But it should be considered, that in some of our ill-endowed benefices, especially in towns, these fees form (or did form before the invention of public cemeteries) a considerable part of the not very abundant income of the ministers; and moreover it is to the advantage of the parish, that the fine so required should act as a check on such appropriations of the ground, and prevent the premature occupation by a few of that, which, if prudently managed, might for a long time be sufficient for all. It would be still better, if such fines were carried to the account of the churchyard, and laid up as a fund for improving or enlarging it, as occasion might require. But, having regard to the consideration already mentioned, it would not be just to introduce such an arrangement, unless some equivalent compensation were made to the Minister, for the loss of his

fees. Thus much, however, I may say, that the Minister is bound to consider himself so far a trustee for the church and the parishioners, as not for any amount of fee to himself to suffer any vault or monument to engross an unreasonable extent of ground; and that it would be the duty of the Churchwardens to represent to the Ordinary any such undue concession. For the same reason, the Clergy ought to be cautious of admitting non-parishioners to burial in their churchyards. I will not say that such burials ought to be wholly excluded. There may be family attachments, which it would seem harsh to disregard; but the admission should be very sparingly granted.

What has been said, as to burials in churchyards, applies in a much higher degree to burials in churches, if indeed such are ever to be allowed. Fraught as they are with danger, both to the stability of the fabric and to the health of the worshippers, it is to be hoped that they will soon be altogether discontinued, as they are already in many places absolutely prohibited by public authority.

With regard to monuments, the permanent and continually visible memorials of the dead, the Clergy ought to exercise a very vigilant superintendance; and not to suffer any to be erected, either in church or churchyard, till they are satisfied that the design, the dimensions, and the inscription, are all such as are proper to be

allowed. Much inconvenience, and some heart-burning may be saved, by having it thoroughly understood in the parish that such previous information will always be required. It is a painful thing to have to refuse admission to a monument brought ready prepared, which yet it may be the clergyman's duty to do; while, by timely communication with him, the friends of the deceased may, and often do, receive suggestions whereby they are enabled to erect a memorial more agreeable to their own feelings than that which they had at first intended.

I apprehend, that the law as to interments and the erection of monuments in chancels (meaning hereby chancels proper, not private aisles, sometimes improperly called chancels) is the same as in the naves of churches; namely, that they are subject to the control of the Ordinary. The Rectors, whether lay or ecclesiastical, have no authority to order the chancels at their will; though they have sometimes supposed themselves entitled to treat them as if they were their own property. And Lay-rectors have in some instances claimed rights in the chancel, absolutely inconsistent with what is plainly the proper purpose of the chancel, the use of it for Divine Service. The Lay-rector is bound to the maintenance of the chancel, because he has succeeded to the possession of the tithes and other rectorial property, if any, which were formerly charged with such

maintenance in the hands of the ecclesiastical Rector. The privilege of the Lay-rector, in regard of his succession to the ecclesiastical Rector, and as such being charged with the repair of the chancel, is, that he has a right to the chief seat therein, though the extent of this right has never, so far as I know, been defined; but it must of necessity be so far limited as not to interfere with the performance of the Divine Service, which is the first and indispensable use of the chancel. But though the Lay-rector cannot lawfully make vaults or fix tablets in the chancel without the leave of the Ordinary, yet, as he is bound to repair the chancel, he has a clear right to be heard against any acts of that sort which may damage the walls or foundations; and therefore, I conceive, would be entitled to demand a fee, as a compensation for waiving his right to object. And the Vicar ought to exercise the same, (or even in regard of the greater importance of preserving the chancel from desecration, a stricter,) superintendence over vaults and monuments in it than in the body of the church, and should require equally full information of any such works intended to be introduced, on account of which he also may reasonably expect a fee. But, at all events, it is his duty to watch for the protection of the chancel against the introduction of anything unsuitable.

The Clergy, as I have said, are the persons

principally charged with those cases; but it is the duty of the Churchwardens to assist them, by reporting to them any irregularity or impropriety actually committed, or which they may have reason to suppose likely to be committed in these particulars; and to remonstrate against any such irregularity or impropriety, even although licensed by the clergyman himself; and, if need be, to represent it to the Ordinary, whose officers they are. They are also to maintain the fences and paths of the churchyard; or if, as is the case in many parishes, the owners of adjoining lands are bound to maintain the fences, then it is the duty of the Churchwardens to see that they are properly repaired by them. But with regard to the soil of the churchyard, the Incumbent has fuller rights over it, than he has over the church. For the herbage is his; and the timber, if there is any, is his, to the same extent as in the case of any other tenant for life impeachable for waste; that is to say, that though he may not cut it to sell for a profit, he may cut it for repairs; and any windfalls are his. The right of occupation, therefore, of the churchyard is his, save only that if he should use it in a way unsuitable to its purpose as a burial-ground, or unbecoming the curtilage of God's House, the Churchwardens ought then, after previous expostulation, to bring such misusage to the notice of the Ordinary.

The principle upon which the Churchwardens ought to regulate their conduct in all cases of this kind, where they find themselves constrained to differ from their Minister as to matters regularly falling under his management, is the same as that laid down by Lord Stowell, (then Sir William Scott,) with regard to the conduct of the Divine Service, in one of the most valuable judgments ever delivered by that great judge [b]. I shall quote the most material part of it, though it is to be found in all the common books which treat of the office of Churchwarden.

The case was one in which the Churchwardens had taken upon themselves to prohibit chanting and singing in the church in the way directed by the Minister.

Sir W. Scott said,—

"The first point is, whether these Churchwardens have a right to interfere in the Service of the Church? As, if that interference is legal in any case, it is so in the present. To ascertain this, it is proper to consider what are their duties; and I conceive that originally they were confined to the care of the ecclesiastical property of the parish, over which they exercise a discretionary power for specific purposes. In all other respects, it is an office of observation and complaint, but not of control, with respect to Divine Worship. So it is laid down in Ayliffe, in one of the best Dissertations on the duties of Churchwardens,

[b] Hutchins v. Denziloe, 1 Haggard, 170.

(Parergon, p. 170,) and in the Canons of 1571. In these it is observed, that Churchwardens are appointed to provide the furniture of the church, the bread and wine for the holy Sacrament, the surplice, and the books necessary for the performance of Divine worship, and such as are directed by law; but it is the Minister who has the *use*. If, indeed, he errs in this respect, it is just matter of complaint, which the Churchwardens are bound to attend to; but the law would not oblige them to complain, if they had a power in themselves to redress the abuse.

"In the Service the Churchwardens have nothing to do but to collect the alms at the offertory; and they may refuse the admission of strange preachers into the pulpit. For this purpose they are authorized by the Canon (1603, c. 50); but how? when letters of orders are produced, their authority ceases. Again, if the Minister introduces any irregularity into the service, they have no authority to interfere, but they may complain to the Ordinary of his conduct. I do not say there may not be cases where they may be bound to interpose; in such cases, they may repress, and ought to repress, all indecent interruptions of the Service by others, and are the most proper persons to repress them, and they desert their duty if they do not. And if a case could be imagined in which even a preacher himself was guilty of any act grossly offensive, either from natural infirmity, or from disorderly habits, I will not say that the Churchwardens, and even private persons, might not interpose, to preserve the decorum of public worship. But that is a case of

instant and overbearing necessity that supersedes all ordinary rules. In cases that fall short of such a singular pressure, and can await the remedy of a proper legal complaint, that is the only proper mode to be pursued by a Churchwarden, if private and decent application to the Minister himself shall have failed in preventing what he deems the repetition of an irregularity. At the same time, it is at his own peril, if he makes a public complaint, or even a private complaint, in an offensive manner, of that which is no irregularity at all, and in truth nothing more than a misinterpretation of his own."

I have read this long extract, because it seems to me to contain the pith and marrow of all that sound law and good sense could dictate, for the bringing of questions as to whether a Minister has exceeded, or unduly exercised his authority, to an orderly and peaceful settlement. The first thing to be done is, to refer the matter to the Ordinary. The Ordinary may not have power in his own person definitively to determine it. His opinion is not so binding, but that the parties may take the case into court if they think fit; and grave questions may undoubtedly sometimes arise, in which it would be proper, and even necessary to do so. For the coercive jurisdiction of the Ordinary is, generally speaking, to be exercised, not in his chamber, but in his court, and by regular process of law. But if, in such cases as we have been speaking of, the

parties mean to act, not passionately, but rationally and charitably, their wisest course will be to acquiesce in the judgment of the Ordinary, and consent to be guided by his recommendation.

It would be well for the peace and good order of the Church, if this course were more generally adopted, than we find it to be; and especially if recourse had been had, and due regard shewn to the fatherly counsel of the Ordinary in those ritual questions which have been the subject of so much contention. I do not think it would be practicable, or desirable if it were practicable, to define by law "the ornaments of the Church, and of the Ministers thereof," with such minuteness and precision, as to shut out all occasion of cavil about the omission by an anti-ritualist, or the introduction by a ritualist minister, of some article of dress or church furniture, or some way of performing the Service, that might be distasteful to some section of the congregation. Enough might be done to irritate feeling, but not enough to prevent diversity of practice, even within the strictest limitations that words could express. In these matters, everybody agrees that some amount of order and solemnity is necessary; the questions commonly disputed are, how much there should be, and on what authority that which is to be allowed should rest? Some persons stand up for ancient usages, though for usages which have

been long, but as they say, wrongfully, or at least, unwisely, suffered to fall into abeyance; others object to everything that has not been commonly used or practised within the range of their own experience or information, as being an impertinent novelty, or, if ancient, as being derived from a suspected source. These are, therefore, just the cases in which the counsel of the Ordinary might be most beneficially invited and accepted. It will hardly be alleged by anybody, that the condition of our churches, or the manner of performing the Service in them, was so unexceptionable in the early part of this century, that it needed no alteration. Both have been altered very much; and most people will admit, very much for the better. Some, however, think that the alteration has gone, or is going, too far. This is the very thing which the Ordinary is best qualified both by his position and the regular course of his duties to determine. He is not infallible; perhaps he may have a taste of his own, one way or the other; he may be supposed, whether justly or not, to like or dislike a solemn ceremonial; we cannot be quite sure that he would decide as he ought, or as we think he ought. But he is a great deal more likely—even if we look upon him only as a man set to judge among his brethren, much more as a man under high spiritual responsibilities, and having promise of spiritual

assistances—to take a fair and temperate view of the subject in question, than persons of extreme opinions on either side, who, in the excess of their zeal and overweening self-confidence, are apt to take upon them to judge their judges, and to treat both the office and person of their Ordinary with insolent contempt, not to say with slanderous reproach.

One party in the Church is disposed to contend that every ceremony or ornament, not expressly forbidden by law, is allowed. Another, that every ornament or ceremony, not expressly allowed, is forbidden. Both are wrong. There are many things necessary, and many more things universally admitted to be desirable or convenient for the Service, of which the law makes no mention. There are other things, at least unsuitable, if not absolutely repugnant, to the spirit of our Liturgy and Offices, which yet the law has not expressly prohibited. Not only no law does, but no law possibly could provide for all such particulars; or even for the less or greater amount of ornament or ceremony in such things as are confessedly required. It seems that we are now going to have a Royal Commission on the Rubrics. Such a Commission may very likely do good. If fairly composed, and we have no reason to think it will be otherwise, it is perhaps the best method that under present circumstances could be adopted for bringing the lay mind into contact with the

clerical, jointly to devise means for putting some questions, which are now matter of distressing contention, into a train for such a settlement as may be generally acceptable. And the recommendations of such a Commission would, it must be presumed, command the most respectful attention both of Convocation and Parliament, if any legislative action should be considered necessary. I particularly specify Convocation, considering that, according to the constitutional practice of this Church and Realm, no alteration ought to be undertaken by Parliament in the Book of Common Prayer, till the advice of the Clergy in their Convocations has been first had touching the same. But it is most earnestly to be hoped that the Church and Realm may keep as clear as possible of the difficulties of legislation on so complicated a subject, involving so many cherished feelings and prepossessions. Granting that the Law of Ritual, as it stands, is vague and undefined; it had better remain in its present uncertainty than be screwed up to a minute uniformity, incapable of accommodation to the possible circumstances of future times, or even of different congregations at the time now present. The faith and doctrine of the Church must be kept uncorrupt; and nothing that contradicts or throws doubt upon her faith or doctrine must be admitted into her ordinances and ministrations. The Offices and Rubrics of the Church are in-

tended to provide for this; and, further, for such an amount of agreement even in the mode of conducting the services, that all the members of the same Communion may find the performance of the divine Offices in all Churches of their own Communion, the same in all essentials as in the Church of their own parish, and may be able to join in them with the same security for soundness of doctrine and propriety of administration. And this is the utmost that can be attempted by legislation with any reasonable prospect of success.

There must, then, be a discretionary liberty to be exercised within certain limits which the law will allow. The discretion is committed primarily to the clergyman, but not so absolutely as to be uncontrollable. If it were so, he would be the master, not the Minister, of his congregation. If, on the other hand, the Churchwardens or the congregation had the power of controlling the Minister, they would be his masters, not his people. So, if questions arise between them, the Ordinary is the Judge, to whom, as well by reason of his spiritual authority as by the express provision of our law, they ought to be referred. The Upper House of Convocation of our Province, in their resolution on the subject of Ritual (February 13, 1867), directed attention to this provision as it is expressed in the Preface to the Prayer-book:—

"And forasmuch as nothing can be so plainly set

forth, but doubts may arise in the use and practice of the same, to appease all diversity, if any arise, and for the resolution of all doubts concerning the manner how to understand, do, and execute the things contained in this book; the parties that so doubt, or diversely take anything, shall alway resort to the Bishop of the diocese, who, by his discretion, shall take order for the quieting and appeasing of the same; so that the same order be not contrary to anything contained in this book. And if the Bishop of the diocese be in doubt, he may send for the resolution thereof to the Archbishop."

It is obvious that this discretion of the Ordinary is not applicable to matters already distinctly determined by law. If such cases are referred to him his only duty is to state the law, and, if need be, to enforce it. His authority only extends to matters on which the law is as yet undetermined, or which the law itself leaves open; as where the law allows, but does not expressly command, or where the law is wholly silent, neither commanding, allowing, nor forbidding. What the law expressly and distinctly allows, though it does not expressly command, the Ordinary has no coercive power either to command or to forbid, though, if he should in the exercise of his fatherly superintendence, having regard to the circumstances of a particular Church or Congregation, recommend that the liberty so allowed by the law should, or should not, be used, at least

till circumstances change, his recommendation ought to be received and accepted either way, as the ruling of a Governor charged with the peace of the diocese and of the Church. And much more where the law is silent. For there it is the plain duty of the Ordinary to take care that no change be made either in the ornaments of the Church or the Ministers thereof, or in the way of administering the Services, under colour of exercising a liberty not denied by the law, which change the Ordinary, in his grave and deliberate judgment, considers to be inconsistent with the doctrine, tone, and manner of the Articles and Formularies of the Church, and calculated to turn the religious feelings of the congregation aside from the truth. And here, also, it will be the duty of parties, who may be dissatisfied with the Ordinary's sentence, whichever way it may be given, respectfully to acquiesce in it, unless they conscientiously believe the question to be of such gravity as to oblige them to call for the decision of a higher tribunal.

Many subjects which have formerly come under our consideration are still matters of discussion. Church Rates, assailed by no new argument, are yet to be got rid of, if persevering determination can succeed in voting them down. A School Rate is to be introduced, if the country can be persuaded that religion is not of the essence of education, or that religion can be taught with-

out a Creed. On these matters I have spoken to you before, and have nothing new to add.

The Report of the Committee of the Lower House of our Convocation, on Banns of Matrimony, lies still on the table of the House, other subjects having had precedence of it for consideration, and the Royal Commission of Inquiry into "the state and operation of the various laws now in force in the different parts of the United Kingdom with respect to the constitution and proof of the contract of marriage," has not yet made its report. In the meantime, a judgment has been given in the Court of Queen's Bench, which, if it stands, will make it at least extremely difficult, if not impossible, to ascertain what is the "accustomed duty to the Priest and Clerk," which they are entitled under the rubric to claim as a marriage fee. The judgment not having been unanimous, and the principle of it affecting many important interests besides those immediately concerned, the point decided will probably be brought before a higher Court. I make, therefore, no remark upon it, except to repeat what I observed on a former occasion, that it is most desirable that these fees should be settled by the same authority as those of the Registrars of Marriages, and should be of uniform amount.

The often discussed subject of Ecclesiastical Dilapidations has again been referred to a Committee of the Lower House of our Convocation,

with power to confer thereupon with any Committee that might be appointed by the Convocation of the Province of York. The York Convocation has appointed a Committee, and the two Committees having each separately considered the subject, have held a Conference in London. They had the satisfaction to find that on main principles they were already of one mind, and in the course of discussion they so cleared away the points on which they at first differed, that it may be hoped they will be able to induce their respective Committees to concur in the same recommendations. I most earnestly desire that this hope may be realized, and that not only the Convocations, but the whole Clergy of both Provinces may be satisfied with what the Committees have done. It would, of course, be too much to expect that everybody should be satisfied with everything proposed; but I feel sure that, while every provision that was even plausibly objected to in former measures has been removed, there is enough left to be the basis of a highly remedial enactment, securing as far as possible the maintenance of glebe houses in proper repair, without interfering with the free enjoyment of them by the present occupants.

These may, perhaps, be called secular considerations, conversant about the worldly concerns of the Clergy. They are so; and yet they have also a bearing upon important spiritual interests.

Much of a clergyman's usefulness depends upon his being, if modestly, yet sufficiently, so far provided with outward comforts and conveniences, as to be able to attend upon his work without distraction. And of these comforts, a good house is one of the greatest; and every clergyman that has succeeded to one, ought to take care of it, and leave it to his successor in as good condition as he himself received it. This is what the law endeavours to enforce. It has failed to enforce it equitably in many instances for want of sufficient machinery. It has laid heavy burthens where they ought to have been light, and light ones where they ought to have been heavy. Our Committees have done their best to discover a remedy for these uncertainties. If they have succeeded, they will both have benefited the Church, and removed a great load of anxiety from pressing on the families of the Clergy at the time when it is most severely felt.

Let me now crave your attention to a few words on behalf of our Diocesan Societies for Building Churches and Parsonage Houses; for Education of the Children of the Poor; and for supply of additional Spiritual Help, where the work of the benefice requires assistance, and the income is not sufficient to afford it. For one of these, as you well know, our Bishop issues a Pastoral Letter every year, requesting subscriptions from individuals, and a general collection from every

parish. I am sorry to say that in some instances this appeal is entirely disregarded. And yet there are no institutions more deserving of support; and I will venture to say there are none more carefully and fairly administered. I will not enter into the various reasons that are alleged in excuse of this neglect. They are not such as will commend themselves to the mind of any clergyman who is really desirous of promoting the honour of God by increasing the efficiency of His Church. The most plausible of them, though I am almost ashamed to mention it as such, is unwillingness to trouble the congregation with such applications. It is but a poor compliment to a congregation, to suppose that they would be thereby offended. And let it be observed, that it is not necessary to occupy a whole sermon with the subject. Less than five minutes would be quite enough to remind the congregation of the nature of a call which is periodically repeated. And however small may be the amount of the collection that can be expected, still the opportunity of contributing an offering to God ought not to be withheld. I beg you, my Reverend brethren, to consider this: and I beg you, my Lay brethren, and you especially who are Churchwardens, to do your best to stir up the liberality of your parishioners, and persuade them to shew it, not only in the way of collection, but also, where there is ability, by annual subscription.

Our Berks Clerical Fund, having now no heavy demands on it for its principal purpose, the support of clergymen's widows and orphans, is in condition to grant a few Exhibitions of £20, towards the education of the children of living clergymen. The treasurer, the Rev. John Leigh Hoskyns, of Aston Tirrold, will gladly receive applications from, or on behalf of, any clergyman to whom such aid would be desirable, and will lay them before the stewards at their meeting.

One other subject remains, upon which, though it would be presumptuous in me to say much, I cannot be content to be altogether silent. I mean the invitation which the Archbishop of Canterbury has addressed to the Bishops in visible communion with the United Church of England and Ireland, to meet together under his Grace's presidency, in the month of September next. The nature and objects of the meeting are briefly but comprehensively stated in one paragraph of the letter of invitation :—

"Such a meeting would not be competent to make declarations, or lay down definitions on points of doctrine. But united worship and common counsels would greatly tend to maintain practically the unity of the faith, while they would bind us in straighter bonds of peace and brotherly charity."

There is, I think, the fairest prospect that these desirable objects will be promoted by the intended

meeting. The branches of the Church in communion with us are very numerous, and, thanks be to God, they are continually increasing in number and strength. They form various groups, linked together in various modes of association, but with no general bond of mutual dependence, except the possession of the common faith, and the inheritance of the common episcopate. These have been sufficient hitherto to retain them in godly union and concord; and we may trust will continue to do so, without the necessity of any general legislative or judicial assembly for the whole, the composition, rights, and powers of which we could find no authority competent to define. Brotherly conference and comparison of judgments among our spiritual fathers may, under God's guidance, well do that for us which the present state of the Church, particularly in our own Colonies, seems to require, for the ascertainment and confirmation of the faith, where it has been already received, against all misrepresentation, contradiction, or corruption, and also for the propagation of it by united and well-combined endeavours, where it has not yet been planted.

May it please God favourably to regard the design of the intended gathering; to pour His Spirit upon His servants the Bishops and Pastors of His flock that shall be there assembled, and so to guide their consultations that they may end in the promotion of His glory and the salvation of

souls. And may He, by all the methods of His providence and grace, so rule all our hearts that we may continue in His faith and fear, and abiding in the fellowship of His Church may grow up in all things unto Christ who is her Head; "From whom the whole body, fitly joined together, and compacted by that which every joint supplieth, according to the effectual working in the measure of every part, maketh increase of the body to the edifying of itself in love [e]."

[e] Eph. iv. 16.

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